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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/825,076

04/15/2004

Gary F. Holland

103003-200

7149

27267

7590

07/29/2008

WIGGIN AND DANA LLP
ATTENTION: PATENT DOCKETING
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EXAMINER

NGUYEN, DINH Q

ART UNIT

PAPER NUMBER

3752

MAIL DATE

DELIVERY MODE

07/29/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/825,076	Applicant(s) HOLLAND ET AL.	
	Examiner Dinh Q. Nguyen	Art Unit 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-70 is/are pending in the application.
- 4a) Of the above claim(s) 1-40, 54 and 66-70 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 41-53 and 55-65 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date | 6) <input type="checkbox"/> Other: _____ |

7/19/04, 9/20/04, 12/06/04, 2/25/05, 10/31/06, 3/05/05, 5/30/08.

DETAILED ACTION

Election/Restrictions

1. Claims 1-40 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention and Species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on March 31, 2008.
2. Applicant's election with traverse of invention and Species in the reply filed on March 31, 2008 is acknowledged. The traversal is on the ground(s) that the particular invention groups of claims have a unique relationship such that they may be examined at the same time without undue burden on the examiner. This is not found persuasive because as indicated in the restriction requirement dated March 17, 2008, each of the invention groups has their own separate utilities as indicated in the restriction requirement, and there are undue burden searches on the examiner because they are required different field of searches.

The requirement is still deemed proper and is therefore made FINAL.

Claim Objections

3. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 59-69 been renumbered 60-70, there are two claims with numbers 59.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 41-53, 55-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rhines in view of Italiane et al.

Rhines disclose the step of suppressing vehicle fires comprising: activating a fire suppression system 22/26 according at least one condition such as a temperature sensor 40 or a collision sensor 16. Rhines does not disclose a fire suppression system comprises a propellant and a fluid fire suppressant. However, Italiane et al. teaches a fire suppression system 200 comprises a propellant 202 and a fluid fire suppressant 216 with a surfactant such as pluronic polyols (see column 11, line 30). Therefore, it would have been obvious to one having ordinary skill in the art to have provided the device of Rhines with a fire suppression system that comprises a propellant and a fluid fire suppressant as suggested by Italiane et al. Doing so would provide an effective way to fight fires in an enclosed space (see column 2, lines 65), and because (a) the Rhines reference and the Italiane et al. reference are *known work in one of field of endeavor*, (b) such modification is merely the use of known technique to improve a similar device by Italiane et al. and (c) such modification, i.e. choosing from a finite number of predictable solutions, is not of innovation but of ordinary skill and common sense. *KSR, International Co. v. Teleflex Inc.*, 550 U.S. (2007).

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With respect to claims 42-53, 58, 59, Rhines in view of Italiane et al. teaches all the limitations of the claims except for activating the fire suppression system on a predetermined condition. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to provide the device of Rhines and Italiane et al. with the activating the fire suppression system on a predetermined condition, because Application has not disclosed that activating the fire suppression system on a particular condition provides an advantage over other predetermined conditions. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either claimed activating conditions or the Rhines' conditions. Therefore, it would have been an obvious matter of design choice to modify the device of Rhines and Italiane et al. to obtain the invention as specified in claims 42-53, 58, and 59.

With respect to renumbered claims 60, 64, and 65, to place the discharged fire suppressant at an under side of the vehicle is an obvious matter of design choice to a person of ordinary skill in the art, since is it well within one skilled in the art to place the discharging of the fire suppressant where it is most effective to fight fires.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. 5,960,888 to Moore, Sr. is cited to show a vehicle fire suppressant system.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinh Q. Nguyen whose telephone number is 571-272-4907. The examiner can normally be reached on Monday-Thursday 6:00-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on 571-272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dinh Q Nguyen/
Primary Examiner, Art Unit 3752

dqn